

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHAWN ALLEN,	§
	§
Defendant Below–	§ No. 69, 2019
Appellant,	§
	§
v.	§ Court Below–Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 1805016919 (N)
Plaintiff Below–	§
Appellee.	§
	§

Submitted: July 10, 2019

Decided: September 13, 2019

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

Upon consideration of the brief and motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26(c), the State’s response, and the Superior Court record, it appears to the Court that:

(1) On November 15, 2018, a Superior Court jury found the appellant, Shawn Allen, guilty of one count of possession of a firearm by a person prohibited (“PFBPP”), one count of possession of ammunition by a person prohibited (“PABPP”), and one count of receiving a stolen firearm. On January 18, 2019, following a presentence investigation, the Superior Court sentenced Allen as follows: (a) for PFBPP, to fifteen years of Level V

incarceration, suspended after five years for decreasing levels of supervision; (b) for PABPP, to one year of Level V incarceration, suspended for one year of Level III probation; and (c) for receiving a stolen firearm, to one year of Level V incarceration, suspended for one year of Level III probation. This is Allen's direct appeal.

(2) Allen's counsel on appeal has filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Allen's counsel asserts that, based upon a conscientious review of the record, there are no arguably appealable issues. Counsel informed Allen of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Counsel also informed Allen of his right to supplement counsel's presentation. Allen did not file a written response raising any issues for this Court's consideration. The State has responded to the position taken by Allen's counsel and has moved to affirm the Superior Court's judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), this Court must be satisfied that the appellant's counsel has made a conscientious examination of the record and the law for arguable claims.¹ This Court must also conduct its own review of the record and

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

determine “whether the appeal is indeed so frivolous that it may be decided without an adversary presentation.”²

(4) This Court has reviewed the record carefully and has concluded that Allen’s appeal is wholly without merit and devoid of any arguably appealable issue. We are also satisfied that Allen’s counsel has made a conscientious effort to examine the record and the law and has properly determined that Allen could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. Counsel’s motion to withdraw is moot.

BY THE COURT:

/s/ Karen L. Valihura
Justice

² *Penson*, 488 U.S. at 82.